

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION

MARK RAKOWSKI,

*Plaintiff,*

vs.

LENNOX INTERNATIONAL,

*Defendant.*

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Civil Action \_\_\_\_\_

**JURY DEMANDED**

**PLAINTIFFS' COMPLAINT AND JURY DEMAND**

TO THE HONORABLE COURT:

Plaintiff Mark Rakowski presents his Complaint for unlawful discrimination in violation of Age Discrimination in Employment Act (ADEA), 29 U.S.C. § 621.

**PARTIES**

1. Mark Rakowski is a citizen and resident of the United States, residing in Collin County, Texas.

2. Lennox International is a foreign corporation and may be served with process by serving its registered agent, Corporation Service Company d/b/a CSC-Lawyers Incorporating Service Company, at its registered address, 211 E. 7th Street, Suite 620, Austin, Texas 78701.

### **JURISDICTION**

3. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. § 1343(a)(4) and 28 U.S.C. §§ 1331 and 1337. This suit is authorized and instituted pursuant to the ADEA, and seeks declaratory relief pursuant to 28 U.S.C. §§ 2201 and 2202.

4. This is a proceeding for declaratory judgment, injunctive relief, damages, compensatory damages, liquidated damages, punitive damages, attorneys' fees, and other relief to secure the rights of Mr. Rakowski. It is brought to prevent Lennox International from maintaining a policy, practice, custom, or usage of discriminating against employees, including Rakowski, because of their age.

### **BACKGROUND FACTS**

5. Lennox failed to supervise its managers in preventing age discrimination. It chose to violate the age discrimination law by terminating an older employee who was doing a good job because it wanted a younger employee.

6. Lennox terminated the employment of Mr. Rakowski, Director of Engineering and Technical Support of Allied Air Enterprises, a business unit of Lennox, after 31 years of employment with solid performance reviews and promotions.

7. The only reason provided by Lennox for Mr. Rakowski's termination was that the "Company was going in a different direction."

8. It appears that the only different direction that Lennox took in replacing Mr. Rakowski was with a substantially younger person, who had been both hired and trained by Mr. Rakowski.

9. To this date, the organization and team that Mr. Rakowski created, trained, and managed remains the same as that established prior to Mr. Rakowski's termination.

10. The single change is that a 57-year old director was replaced by a younger employee.

11. Before terminating an employee, Lennox's Human Resource department typically requires managers to document performance issues with write-ups and then a six-month performance improvement plan.

12. Lennox did not give Mr. Rakowski a performance warning or performance improvement plan.

13. It can be established that Mr. Rakowski received a minimum of a "Meets All" rating for the last three years, and has provided substantial financial benefits to Lennox during his 31-year tenure.

14. Now that Mr. Rakowski is claiming age discrimination, Lennox is inventing false or unsupported reasons for his termination, such as missing meetings, being unprepared, and not leading his team.

15. These claims are either false or distortions.

16. Mr. Rakowski has sufficient evidence under the law to prove a violation of the Age Discrimination in Employment Act, by Lennox who has a history of discriminating based on age, as well as other protected statuses.

17. Mr. Rakowski was born in Milwaukee, Wisconsin in 1962.

18. He is a graduate of the University of Wisconsin, Milwaukee with a BSME degree.

19. In April of 1988, Mr. Rakowski was hired as a Design Engineer at Lennox Industries in Carrollton, Texas.

20. During his 31-year tenure, Mr. Rakowski was promoted through the various grades of Design Engineers, Manager of Engineering Resources, Manager Cost Reduction Engineering, Director Level I of Engineering and Director Level II of Engineering.

21. Up to the date of his termination at Allied, Mr. Rakowski can demonstrate his proven accountability, results, and leadership.

22. Lennox has deprived Mr. Rakowski of his performance bonus and stock options for 2019, as well as throughout the remainder of his career.

### **CAUSE OF ACTION**

#### **ADEA Violation**

23. Mr. Rakowski over 40 years of age.

24. Mr. Rakowski is qualified for his position.

25. Lennox was terminated Mr. Rakowski.

26. Lennox replaced Mr. Rakowski by someone substantially younger.

27. Lennox's reasons for the termination are not believable.

28. Lennox willfully violated the ADEA and engaged in a pattern and practice of discrimination.

29. Lennox's actions violate the ADEA and caused continuing damages to Mr. Rakowski, including lost wages, liquidated damages, costs, and interest.

### **Declaratory and Injunctive Relief**

30. Mr. Rakowski is entitled to a declaratory judgment, declaring Lennox's past practices to be in violation of the ADEA and is also entitled to equitable relief in the form of an injunction prohibiting Lennox from engaging in unlawful employment practices, reinstating Mr. Rakowski's employment with back pay, and reporting on the manner of compliance with the court order.

### **Attorneys' Fees**

31. Mr. Rakowski retained the services of the undersigned attorney to prosecute the cause. Under the ADEA, Mr. Rakowski is entitled to a reasonable amount for attorneys' fees and expenses for all services rendered in this cause, including trials and appeals.

## **JURY DEMAND**

32. Mr. Rakowski requests a trial by jury of all issues on which the laws of the United States allow a trial by jury.

WHEREFORE, Mr. Rakowski requests that upon final trial, Mr. Rakowski have judgment against Lennox for reinstatement; lost wages and benefits; liquidated damages; attorneys' fees and expert fees and expenses; injunctive and declaratory relief; interest as provided by law; costs of suit; and any further relief to which Mr. Rakowski may be entitled.

Respectfully submitted,

/s/ Brian P. Sanford

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